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**THE EUROPEAN UNION AND TRANSNATIONAL JUSTICE
IN THE WESTERN BALKANS:
A CASE STUDY OF CROATIA AND SERBIA**

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ABSTRACT

Among the many international bodies and organizations that have made transitional justice a precondition for cooperation is the European Union (EU). The Union's strong advocacy for human rights, democracy and transitional justice during reconciliation of the Western Balkans is one of the factors that led to the bestowal of the 2012 Nobel Peace Prize ("The Nobel Peace Prize 2012 to the European Union"). This article will address the role of the EU in creating security within Europe in relation to the transitional justice that is taking place within the Western Balkans. The Union's involvement in the reconciliation process of the Western Balkans through the Stabilisation and Association Process (SAP) will be explored and the Union's European Neighborhood Policy (ENP) will also be brought into focus regarding the policy's means of evasion in creating a secure European neighbourhood. In order to understand the breadth of transitional justice measures taken by the Union within the Western Balkans, the case of Croatia will be taken into account, as the first country from the area to be accessed into the Union in 2012, and to some extent compared to the process that is taking place in Serbia. This article seeks to bear out how although the ENP has to a degree succeeded in establishing constitutional peace within 'Wider Europe', the cursoriness of its role in executing transitional justice in the Western Balkans has led to the obstruction of sustainable peace within the region.

KEYWORDS: European Union, transitional justice, Western Balkans, Croatia, Serbia

INTRODUCTION

"I can only note that the past is beautiful because one never realises an emotion at the time. It expands later, and thus we don't have complete emotions about the present, only about the past."

— Virginia Woolf

Woolf's impression on how one's cognizance of emotions at a moment in time can only be fully grasped moments afterwards sheds light on the difficulties post-conflict societies today

continue to face in prevailing over their violent past. Within this process, memory, both individual and collective, acts as a frame for individuals to find meaning in their past experiences and is liable for the emotions that they subconsciously build and feel over time.

When manipulated by the media, political parties or other agents with vested interests, stirred emotions may develop into renewed forms of hatred or guilt and come to be obstacles for the society to start over without prejudice, or epistemologically return to a state of *tabula rasa*. Such plight was addressed by the Secretary-General of the United Nations (UN) Ban Ki-Moon during the “Building a Future on Peace and Justice” conference on 25 June, 2007 that was co-hosted by the governments of Germany, Jordan and Finland, along with the Crisis Management Initiative (CMI) and the International Center for Transitional Justice (ICTJ): “*One of the most fundamental challenges of peacemaking and peacebuilding is confronting the past while building a just foundation for the future*” (Ambos et al., 2009, p. 3).

Since the Nuremberg military tribunals that swiftly took place from 1946 to 1949, judicial and non-judicial measures that fall under the umbrella term ‘transitional justice’ have strongly been advocated as an essential part of post-society reconstruction and often promoted as a precondition for successful transition from authoritarian regimes to democracies. With the institutionalization of transitional justice as an international norm, a thriving international justice industry has been created and varying transitional justice practices have been proposed in different parts of the world. De Greiff and Duthie (2009) argued that the range of disciplines encompassed by transitional justice is varied and contrary to popular belief is not exclusively about the law, but suffuses public policy, forensics, economics, history, psychology, and even the arts. Nevertheless, despite the different means and disciplines involved, the ultimate goal of transitional justice worldwide remains consolidated and that is “to provide to victims a sense of recognition not only as *victims*, but as *rights bearers* (De Greiff and Duthie, 2009, p. 58).

Huntington (1991) claimed that the democratic transitions of post-authoritarianism states and reveals how transitional justice is not necessarily a domestic demand, as there are societies that surprisingly prefer “not to prosecute, not to punish, not to forgive, and not to forget (p. 45). On this account, to end feuding to its very roots, it has been urged that the mechanisms of transitional justice imposed on a society should not aim to only secure state compliance, but also aim to ensure internalization of normative values within the post-conflict societies (Jaya, 2010).

However, ensuring and assessing societal transformation is not an easy task. Among many others, it requires patience, time, funding, and a pool of local and international experts on the matter. All of these nuts and bolts are items that international organizations or bodies cannot easily afford. Thereby, it is not a surprise that the normative aims of transitional justice have often been sacrificed and substituted by state-level administrative and legal remedies alone.

Among the many international bodies and organizations that have made transitional justice a precondition for cooperation is the European Union (EU), The Union’s strong advocacy for human rights, democracy and transitional justice during reconciliation of the Western Balkans is one of the factors that led to the bestowal of the 2012 Nobel Peace Prize (“The Nobel Peace Prize 2012 to the European Union (EU)”). This article will further address the role of the EU in creating security within Europe in relation to the transitional justice that is taking place within the Western Balkans. The Union’s involvement in the reconciliation process of the Western Balkans through the Stabilisation and Association Process (SAP) will be explored and

the Union's European Neighborhood Policy (ENP) will also be brought into focus regarding the policy's means of evasion in creating a secure European neighbourhood.

In order to understand the breadth of transitional justice measures taken by the Union within the Western Balkans, the case of Croatia will be taken into account, as the first country from the area to be accessed into the Union in 2012, and to some extent compared to the process that is taking place in Serbia. This article seeks to bear out how although the ENP has to a degree succeeded in establishing constitutional peace within 'Wider Europe', the cursoriness of its role in executing transitional justice in the Western Balkans has led to the obstruction of sustainable peace within the region.

THE EUROPEAN UNION'S LIBERAL PEACE VENTURE

In attempt to comprehend and deal with the vulnerabilities brought about by globalization, a human-centered view of security known as 'human security' has been globally promoted to complement national- or regional-centred views. Human security is a liberal concept in which international agents have the rights to intervene in areas that usually fall within the jurisdiction of the domestic, sub-regional, community, or familial competency, in cases that involve the security of an individual or individuals (Glasius and Kaldor, 2011). Active proponents for human security include foreign donors, nongovernmental organizations (NGOs), international organizations (IOs), international agencies, international financial institutions (IFIs), and regional organizations.

This notion of human security is among the founding fathers of what is known as the 'liberal peace framework,' i.e. a set of recommendations on peacebuilding strategies and interventions designed and established as the guiding principle for models of society, economy and politics within a globalized setting (Duffield, 2001). The liberal peace framework reflects an amalgamation of democratisation, economic liberalisation, neoliberal development, human rights and the rule of law that works toward sustainable peace (Richmond, 2006). One important point to bear in mind is how the notions of transition and development also lie within the heart of the liberal peace framework. However, regarding transition, it is also necessary to note that state transition alone is not enough, and it must be accompanied by societal transition. Thus, ideally the adoption and enactment of liberal peace should thus not only encompass on regional and national levels, but also penetrate and include human security on an individual level.

On the subject of peace, four strands of peace constitute the liberal peace framework; each of which has been conventionally pursued in different times in history: the victor's peace, the civil peace, the institutional peace and the constitutional peace (Franks and Richmond, 2009). The victor's peace is comparable to the Carthaginian peace in which peace is won through combat and the winning party may choose forms of "domination" upon the defeated party. Such form of peace was most prevalent before World War II, and the Treaty of Versailles between the Allied Powers and Germany is one case in point in which Germany was economically and military pacified by the winning party. The second form of peace is the civil peace that springs from citizen advocacy and mobilization. The civil peace has for long been promoted as the missing element consolidating the human-, national- and regional-centred views within the liberal peace framework. However, it is most often as it requires extensive efforts, such as

recruiting local expertise, funding and other resources.

The form of peace that appears to be most currently sought for by states and international bodies is a combination between institutional peace and constitutional peace. Institutional in the regulated sense that efforts are put forward to enforce states to behave within a certain normative and legal context, and constitutional in the encompassing sense that peace rests upon democracy, trade, and a set of cosmopolitan values (Franks and Richmond, 2009). Nevertheless, without the civil peace and human security, the outcomes of institutional and constitutional peace resemble that of the victor's peace in which international interference even in the name of liberal peace will merely serve as "a post-colonial praxis of intervention" (Richmond, 2006).

Within the context of post-conflict societies, the main objective of liberal peace should thus be the creation of sustainable peace by means of actualizing the three strands of peace. Nevertheless, in actuality civil peace remains neglected and the liberal peace framework becomes "a paradigm that in actual practice prioritizes the rule of law rather than social justice" (Skleparis, 2008, p.8). The European Union is a supranational entity that also promotes the concept of liberal peace through its projects and policies. On this account, this section will investigate two EU policies, i.e. the Stabilisation and Association Process (SAP) and the European Neighborhood Policy (ENP), that have both been advocated by the EU as part of its liberal peace project particularly in the Western Balkans.

Talks about the EU's role within the global liberal peace project have more or less been about the EU's regulatory approach on "trade, trade-related issues, development concerns and political aspects" (Skleparis, 2008, p.3). In an article entitled "The EU as a Peace Building System: Deconstructing Nationalism in an Era of Globalization," Harry Anastasiou points out how there has not been much reference to the EU in the field of Peace Studies and Conflict Resolution, or at least not within the American academia (Anastasiou, 2007). Nevertheless, the Union has in fact sought to combine initiatives for conflict resolution together with economic, political and developmental schemes through the Stabilisation and Association Process (SAP) launched in 1999, which serves as the EU's policy in relation to its eastern and southern neighboring countries who have expressed their aspirations to be a part of the EU.

Compliance and fulfilment to the SAP, which includes respect for human and minority rights, the creation of real opportunities for the return of refugees and internally displaced persons, and a visible commitment to regional cooperation, is an essential precondition for accession into the EU. Since the Feira European Council in 2000 and the Thessaloniki European Council in 2003, the countries of the Western Balkans have become the current focus of the SAP. As stated within the EU's legislation:

The European Union wishes to initiate a stabilisation and association process with Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Albania and Montenegro and Serbia, including Kosovo (under resolution 1244 of the United Nations Security Council) which constituted the Federal Republic of Yugoslavia in 1999 ("Summaries of EU Legislation: The Stabilisation and Association Process").

The EU has made transitional justice a *sine qua non* within the Western Balkans, and each

country is required to show clear commitment by fully cooperating with the International Criminal Tribunal for the former Yugoslavia (ICTY) that was established in 1993 by the UN Security Council and based in the Hague, the Netherlands. This element of conditionality enclosed within SAA agreements is well praised by the international community, as it is believed to reflect the Union's humanitarian side by giving the Western Balkan countries a relatively clean slate to move forward.

Transitional justice although taking different forms, e.g. restitution, public apologies and acknowledgments, essentially aims to achieve sustainable peace in societies that have been shook by warfare and atrocities, such as genocide (May, 2012) Jones. The EU's emphasis on the ICTY and criminal proceedings seemingly reflects the Union's worldview that sustainable peace within the former-Yugoslavian countries can be achieved through legal restitution of wrongdoings throughout the Yugoslavian war. The EU believes that the ICTY is a key factor in:

rebuilding the rule of law following armed conflict in the Western Balkans, ending impunity for international crimes and facilitating reconciliation across the region" and would inevitably pull down "ethno-nationalist ideologies" that provoked the conflicts in ex-Yugoslavia (Rangelov, 2008, p.p. 371-372).

However, bearing in mind that the ideal goal of transitional justice according to the Chorzów Factory Judgment of the Permanent Court of International Justice is reparation to the extent that it would "wipe-out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed," legal measures alone is not enough for achieving sustainable peace (Shelton, 2002, p. 835).

Championing legal proceedings in post-conflict societies can be understood as the 'judicialisation' of the truth (Rangelov, 2008).²¹ This conception that is believed to be able to prevent conflicts in the future and assist the process of reconciliation across ethnic divides is not singularly favoured by the EU, but also by many other international bodies. Nevertheless, demanding full cooperation of the Western Balkan countries with the ICTY has proved to be the most difficult point in the SAP. It has even dominated the EU's external relations agenda with all three countries. From the six countries of the Western Balkans that have signed the SAP with the EU, Croatia is the first country to be accessed into the EU in 2013 as the 28th EU member state. Croatia signed the Stabilisation and Association Agreement (SAA) with the EU on 29 October 2001 and underwent six years of austere negotiations that is mainly caused by the country's lack of commitment in cooperating with the ICTY (Rotar, 2012).

However, on December 31, 2012 the ICTY officially closed its field offices in Croatia marking the end of Croatia's cooperation with the Tribunal (United Nations Radio: News & Media, n.d). On this account, the EU Council reported the following:

The enlargement process continues to reinforce peace, democracy and stability in Europe and allows the EU to be better positioned to address global challenges. (...) The successful completion of accession negotiations with Croatia is a strong testimony to this and sends a positive signal to the wider region (Council of the European Union).

Nevertheless, as sustainable peace and stability cannot be obtained from constitutional and institutional efforts, there remain doubts whether the completion of ICTY processes with Croatia and other Western Balkan states signifies a progress in sustainable peace. Such doubts will be explored and substantiated in the next section of this article.

In 2002, the former EU Commission President Romano Prodi gave a speech on the quandary of the creation of a 'wider Europe' through the Union's enlargement process and emphasized the need for a solution: "We have to be prepared to offer more than partnership and less than membership, without precluding the latter" (Prodi, 2002). The Union's decision to scrutinize the neighboring countries is to assure that inclusion of new members into the Union would not bring new problems that would disrupt the stability of the core of the Union. However, as addressed by Romano Prodi, a solution is also needed to prevent the emergence of new dividing lines between the member states of the EU and the enlarged EU member states. Thus, as a guiding principle for the relations between EU and its neighbors, the European Neighborhood Policy (ENP) was ratified in 2004.

The basic creation of the ENP was security which is one of the three strategic objectives for the EU: "Our task is to promote a ring of well governed countries to the East of the European Union and on the borders of the Mediterranean with whom we can enjoy close and cooperative relations" (European Council, 2003, p. 8). The ENP is not the EU's first attempt in creating a 'mutual' buffer for its neighbors. In 1992, as proposed by the French President, Francois Mitterrand, the Commission created a 'European Political Area' that would facilitate the regular meetings of European leaders in which the leaders of the Central and East European countries could also be associated with the Commission's specific policies and participate in meetings on trans-European issues.

Despite the EU's claim that the ENP aims to foster security and stability within the wider Europe, the policy in actual fact does not include a regional or multilateral framework within the cooperation, but rather a bilateral framework between the EU as one entity and one neighboring country. There is no overarching framework that facilitates meetings among the neighbors alone. Thus, the ENP is a policy for neighbors rather than a neighborhood policy, as it proceeds to strengthen the bilateral links between the EU and each neighbour (European Council, 2003).

In addition, both the ENP and the European Political Area have one thing in common and that is they only involve regular meetings at high level. In addition, the neighbors are passive participators within these meetings as "(...) in the action plans, the EU will set out the values and standards that the neighbors should adopt, with detailed objectives and 'precise' priorities for action (Smith, 2005). That being so, the ENP could also be seen as a strategic policy to bypass states not for human security reasons or national reasons but rather supranational reasons as it attempts to influence the internal and external policies of the neighbors (Smith, 2005, p. 680). On this account, regardless of how often EU officials announce that they have no intentions whatsoever of redividing Europe, the act of admitting some European states into the EU while postponing or excluding others inevitably produces a divide between the "insiders" and the "outsiders" (Light, White, and Lowenhardt, 2000).

THE ICTY AND ACHIEVING STATE COMPLIANCE: THE CASES OF SERBIA AND CROATIA

The prospect of having closer ties with the EU and eventually accession to the EU has been the most important factor in seeking cooperation with the Western Balkan states regarding the ICTY. The Chief Prosecutor Carla Del Ponte pointed this out when talking about the number of arrested persons that were suspected of war crimes in the former Yugoslavia: “90% of all indictees brought to justice [before the ICTY] are a direct result of conditionality applied by the EU (Hartmann, 2009). Such enticement can be applauded for if the main objectives of transitional justice are purely legal and administrative atonement. However, if the objectives involve transforming society and aim to reach out for sustainable peace rather than cursory peace, the bureaucratization of transitional justice is in actual fact a drawback within the paradigm of human security.

On the subject of genocides, the German-American political philosopher Hannah Arendt argued, “We are unable to forgive what we cannot punish and we are unable to punish what has turned out to be unforgivable” (“The Alternative to Forgiveness”). Post-conflict societies have indeed different ways of dealing with their past. There are those who demand retribution for the identifiable perpetrator. Others demand for public acknowledgement or apology for the atrocities committed. There are also those who seek compensation; be it financial, psychological or spiritual. However, there are also members of society that would prefer to forget and try to move on with their lives. In the case of the Western Balkans, forgetting and moving on is not an option. One of the reasons is because these countries that were once waged in bloody combat are located within close proximity of another. Thus, to leave the past as it is would be like turning on a time bomb for ethnic conflicts in the future.

Alternative to forgetting is required. Legal atonement has been sought as a form of retribution to the people that were directly or indirectly wronged during the Yugoslav wars and the ICTY represented that very commitment of bringing justice to the wronged. However, in states where social demand for normative change is weak and the state is unresponsive, compliance to cooperate must be coerced, for example with rewards that may be in the form of foreign aid, investment or membership to an organization. From the legal perspective of transitional justice, compelling states into compliance with bait is an effective and quick way of securing justice.

One of the most referred to precedent regarding the success of achieving compliance through rewards is the tug-of-war regarding the fate of former President of the Democratic Party of Serbia Milosevic. On October 5, 2000, Milosevic was voted out of the presidency. International pressure was given towards the new government to hand in Milosevic to the ICTY. However, despite the political disfavor towards Milosevic, there was resistance within the Serbian society in giving Milosevic to the ICTY. This reluctance was due to the fact that Milosevic was ousted from his presidential position not due to his role in the Yugoslav wars, but because of his acts rigging the presidential elections against the opposition, Vojislav Kostunica (Subotic, 2009). Thus, the Serbian public did not view him as negatively charged by the ICTY.

The Serbian government was divided into two groups that were ideologically and politically different. The first group was represented by President Kostunica who was concerned

about how a trial for Milosevic would cause a threat to the domestic stability of Serbia and in general dubious about the concept of transitional justice and foreign assistance. The second group was represented by Prime Minister Dindic who had no fixed position about transitional justice but felt that keeping Milosevic away from the ICTY would cause problem for Serbia that was in dire need of foreign aid. On March 31, 2001, on the deadline day set out by the U.S. Congress in order to approve loans for Serbia, Prime Minister Dindic circumvented President Kostunica and arrested Milosevic (Subotic, 2009).

Milosevic's arrest and eventually transfer to the ICTY was appraised by the EU and the U.S. and seen as Serbia's step forward in transitional justice. However, unlike what is perceived by the international community, within Serbia itself, the arrest was never promoted or discussed as "an issue of morality", but rather as an economic and political trade-off. Cooperation with the ICTY was justified by Dindic and his party as an exchange for international credibility and that refusal to cooperate would lead to "the suspension of financial aid, which would bring the country to the brink of economic collapse, complicate the repayment of foreign debt, and prevent Serbia's membership in international financial institutions" (Subotic, 2009, p. 46). In addition, Serbian citizens were also informed that the flow of people sent to the ICTY were "voluntary surrenders" performing their patriotic act to save Serbia from a financial and credibility collapse. They were only informed that these suspects were leaving for the Hague because it was a requirement of the international community or an act of patriotic duty (Subotic, 2009).

Instead of acknowledging the past, the Serbian government repackaged these arrests as the final act of patriotism in which the state was grateful for. Thus, the arrests and trials taken by the ICTY did not in fact bring any substantial transformation in Serbia's acknowledgment of the past, as the Tribunal did not attempt to address the past as a crime and abuse. On this matter, it is necessarily to go back to the form of transitional justice that is designed for Serbia. If the aim is legal atonement on an institutional and constitutional level, then progress has been achieved. However, if the aim is to reach out to the societal level, the arrest of Milosevic for the Serbian citizens is a failure, as the Serbian citizens only perceive it "as a business transaction and not an issue of justice" (Subotic, 2009, p. 47).

Another example of compliance due to coercion was the Serbian government's adjusted response to the indictments by the ICTY in 2003 towards four Serbian generals during the war in Kosovo in 1999. The indictment caused problem because some of the generals were still in active duty in the Serbian army and police corps. The Serbian police minister claimed not to extradite the suspects and called one of the indicted generals a hero. However, due to that in early 2005 Serbia faced increasing international isolation over its refusal to arrest these indicted generals and the EU foreign policy chief cancelled a trip to Belgrade in protest over continuing Serbian non-cooperation with the ICTY. In order to clear up this situation, soon afterwards many ICTY suspects were arrested and transferred to the ICTY. The reason behind this cooperation was again financially motivated. "Although Serbian voters had responded positively to the nationalist hardline rhetoric, when it came to their pensions and salaries, they would not take a complete international freeze lightly" (Subotic, 2009, p. 49).

However, EU leaders' commitment to apply strict conditionality so that full cooperation with the ICTY was demanded in return for rewards has not been equally and consistently enforced to all the Western Balkan states. For example, the EU has been reported to often soften

the requirements for Serbia due to the Union's desire to exert influence to the new Serbian government, as well as in regard of the determining the future status of Kosovo (Subotic, 2009). Surprisingly, the more resistant Serbia's government has proven themselves to be regarding cooperation with the ICTY and other commitments on the subject of transitional justice, the more the EU has compromised.

In February 2007, the International Court of Justice announced that Serbia's reluctance to hand in Ratko Mladic, who was a former military leader, violated the genocide. However, the EU announced on February 12, 2007 that SAA negotiations with Serbia would resume, provided the government showed a clear commitment to achieving full cooperation with the ICTY although this commitment was left unspecified. However, it became obvious that the government was no longer obliged to arrest Mladic and Karadzic as a condition for SAA talks. Previously, in November 2006, NATO came to a surprising decision to admit Serbia to the Partnership for Peace program, even as Serbia continued to ignore ICTY demands, a long-term requirement for NATO admission (Hartmann, 2009). The EU's change in policy was seen as a strategy to strengthen pro-European forces within Serbia. However, it did so at the cost of social justice. Serbia's strategy and international coercive issue-linkage approach cheapened the idea of transitional justice and became seen rather as a trade-off. Thus, it would appear that conditionality is put out selectively with the aim of baiting the state to remain within the wider Europe concept. Thus, in the end, conditionality remains subject to political decisions made by the EU as a political actor that has sometimes prioritized other goals than those set by the ICTY (Hartmann, 2009).

Pressuring the Western Balkan countries at times involved comparing one another and using it as pressure. For example, when Croatia succeeded in arresting and transferring the most-wanted ICTY suspect in Croatia, General Ante Gontovina, international pressure for Serbia to arrest and transfer General Mladic the fourth general wanted by the ICTY increased: "The ICTY put pressure on Serbia, asking it to step up to Croatia's plate (Subotic, 2009, p. 78). In another case, the U.S. secretary of state, Madeleine Albright also conducted the same thing. Responding to the positive attitude presented by the Post-Tudman leadership in Croatia she too expressed hope that the "Croatian example" would pressure Serbia to "think hard" when it saw "Croatia's rapid move into Europe" (Subotic, 2009, p. 88). Such comparative pressure between two states that were previously involved in combat and killings would not help foster a better relation within the two states, or the neighborhood in general, and even has the potency to revive such divisions once more.

On the establishment of the ICTY, Croatia was in fact among the first states within the Western Balkans to demand that the international community establish a tribunal for the atrocities that were committed during the Yugoslav wars (Subotic, 2009). The Croatian government in support of the ICTY even issued what is known as the "Resolution on Cooperation with the ICTY." However, what became the concern of the Croatian government with the role of the ICTY was regarding its actions towards the atrocities that were committed against the Croatian people and other non-Serb people. However, when the ICTY sought to also investigate the war crimes that were committed by the Croatian soldiers during the wars, the Croatian government's initially supportive stance for the ICTY went cold.

The problem was that within Croatia, self-perception has been centered on the notion

as a *victim* and at the same time as a *winner* of the Yugoslav wars. This notion was not only popular within the society, but it was also constitutionalized by the state. Croatia's interpretation of the 'Flash and Storm' operations that were seen by the ICTY as war crimes was perceived as "counterterrorist" operations that was carried out in defense and within Croatia's own territory (Subotic, 2009). It was this notion that was strongly held on to by the Croatian people and the government that made cooperation with the ICTY difficult. The Croatian public's self-perception as a victim in the past may even subsist until today.

One example is the case of the Croatian General Tihomir Blaskic who was prosecuted by the ICTY for war crimes in 1993 and sentenced to nine years of imprisonment. He was released in 2004 and on his arrival at Zagreb Airport, he "was greeted by euphoric crowds singing patriotic wartime hymns, and he was received with honors by the Croatian authorities" (Rangelov, 2008, p. 372). Such a positive reception from the Croatian crowd reflects the failure of the ICTY in bringing justice to the victims, as the perpetrators and the society continue to not acknowledge their actions to be wrong.

Nevertheless, on July 2, 2013 Croatia officially received its membership status within the EU. The country had signed for the Stabilization and Association Agreement in 2001 and applied for membership in 2003. As the 28th member state of the EU, Croatia's accession is claimed to mean the following:

It strengthens stability in the entire Western Balkans region. It expands the EU's internal market, along with new opportunities for EU businesses and customers. In addition, it expands the area where EU standards apply, be it in energy, transport or environmental protection. It also enhances the EU's cultural diversity and human potential, facilitating mobility and exchange opportunities for students and researchers ("Croatia Joins the EU").

However, does Croatia's accession really mean stability within the Western Balkans? How can the EU guarantee that the new EU border established in July 1, 2013 "separating" Serbia and Bosnia-Herzegovina from Croatia will foster a "culture of cooperation" and not provoke a "culture of separation"?

Grass root research has revealed how some Croatian nationalists have always argued that it is only Croatia that belongs to Europe, while Serbia and Bosnia-Herzegovina do not. Thus, for this group of people, Croatia's EU membership can be misunderstood as Croatia's appointment by the EU to be the "defender of Europe" from the other Western Balkan countries (Jovic, 2012). There is no guarantee that Croatia's accession will not turn out like Greece's accessions in which Greece used its veto power to block accession of Macedonia. If this would indeed happen then this would fuel tension among Croatia's neighbors that believe they have in fact done as well or even better in meeting EU's conditionality, particularly their willingness to overcome their reluctance in cooperating with the ICTY. This would all amount to a dangerous development not only for the Western Balkans, but also the stable and secure notion of a wider Europe that has been proudly 'merchandised' by the EU.

That being so, it would appear that although Croatia has fulfilled its duty to the ICTY by eventually transferring all the names in the ICTY's most-wanted list, the society remains

unwavering regarding their perception that actions and atrocities committed during the Yugoslav wars was necessary and pre-emptive. The EU's vote for Croatia's accession thereby not only does not resolve the ethnic tension that still lies, although less aggressively, among the Western Balkan countries, but also preserves it. Legal atonement thus here serves as a loophole for the society to continue preserving or passing down ethnic hatred for generations to come. Thus, the EU instead of seeing the ICTY as the last stage of transitional justice in Croatia's case, should see it only as the constitutional framework to continue to pursue transitional justice measures that now target the society level. In doing so, the EU must cooperate with local actors and establish projects that could promote ethical notions, such as Realism, Pacifism, Nonviolence and the Just War Theory. Only through such human-centred projects can sustainable peace be created within the country and inevitably the region.

CONCLUSION

All in all, the EU's promotion of liberal peace within the Western Balkans through its policies and contentment in the final results of the ICTY have in fact made the interventions function more as forms of neo-colonial practices rather than peace building operations. Both the SAP and the ENP has shown how these external policies instead of building cooperation among the neighboring countries, merely serve the EU's interest in politically and economically dealing and influencing one neighboring country on a bilateral level. That being so, the EU's claims that its policies aim to slowly create a wider Europe region that is founded upon security and stability is a piece of fiction, as it does not attempt to foster the spirit of collaboration among the ENP countries, but rather a spirit of competition among them in fully complying to the EU's wants and needs in order to achieve the prize of EU membership status.

The EU's external policies when imposed upon a region in this case the Western Balkans in which the neighboring countries were not long ago involved in ethnic wars has potentially dangerous aftereffects. The international community's legal atonement solution for the countries of the Western Balkans through the ICTY unfortunately has not resulted in any societal transformation, as seen in the case studies of Serbia and Croatia. The majority of the societies in each country remain unwavering in the belief that their actions during the Yugoslav wars were necessary. That being so, the EU's decision to access Croatia under one of the grounds that the country has completed cooperation with the ICTY reflects the EU's narrow concept of transitional justice.

As promoted within the liberal peace framework, the EU must take into account civil peace in addition to constitutional and institutional peace. Thus, in transforming and rebuilding the Western Balkans, legal atonement through external pressure is insufficient as it fails to incorporate human security by failing to facilitate atonement and societal transformation from within. Thus, with hope to secure sustainable peace within the Western Balkans, the EU must not see the ICTY and legal atonement as the final step or the ultimate success of transitional justice. Quite the contrary, it should even be perceived as the first step of many long steps required to slowly influence societal transformation within the societies and finally achieve sustainable peace.

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